

EAST RENFREWSHIRE COUNCIL28 June 2023Report by Director of Business Operations and PartnershipsCHANGE TO SCHEME OF DELEGATION – PROPER OFFICER**PURPOSE OF REPORT**

1. To amend the scheme of delegation to provide for substitute proper officers in the event that the Chief Officer – Legal and Procurement is unavailable to sign formal documentation on behalf of the Council

**RECOMMENDATIONS**

2. The Council is asked to:-
  - i) Approve new delegations to the Director of Business Operations and Partnerships and the Chief Officer – HSCP to act as substitute proper officers in the event of the Chief Officer – Legal and Procurement being unavailable;
  - ii) Insert in the Scheme of Delegation as new paragraphs 10(c) and 42(h) the following words to give effect to these delegations:-

“in the absence of the Chief Officer – Legal and Procurement, to act as proper officer for the purposes of the Local Government (Contracts) Act 1997 and section 193 of the Local Government (Scotland) Act 1973 and to execute all deeds and similar documents which require to be executed”

**BACKGROUND**

3. The Chief Officer – Legal and Procurement is currently identified as the Proper officer for the purposes of signing formal contractual documentation, deeds and other similar documents with legal effect on behalf of the Council. It is considered prudent to authorise further substitute Proper Officers for this purpose to ensure that Council business is not unnecessarily delayed in the event that the Chief Officer – Legal and Procurement is otherwise unavailable to carry out these tasks.

**REPORT**

4. The Local Government (Scotland) Act 1973 and the Local Government (Contracts) Act 1997 require certain formalities in order that various types of documentation issued by the Council have legal effect. These formalities include that the documents are signed by officers who have been authorised to bind the Council, such officers being known in the legislation as the Proper Officer for that purpose.
5. The current Scheme of Delegation identifies the Chief Officer Legal and Procurement and the Principal Solicitor as the Council's proper officers for the purpose of signing formal documentation. Pending finalisation of a Legal Services structure review the

Principal Solicitor's post is currently vacant following the retirement of the previous incumbent and it is therefore necessary to delegate this function to other officers of appropriate seniority so that there is an available signatory in the event that the Chief Officer Legal and Procurement is unavailable for whatever reason.

6. The Proper officer role for these purposes is administrative in nature. No legal qualification is required. The Director of Business Operations and Partnerships and the Chief Officer – HSCP have both been canvassed regarding their willingness to fulfil this role and have agreed to do so. Staff of Legal Services will continue to assess and advise on the appropriateness of signing any such documentation. In any event it is envisaged that performance of the role will only be required infrequently, at times when there is an urgency to completion of the documentation and the Chief Officer – Legal and Procurement is otherwise unavailable e.g. during periods of leave.

### **FINANCE AND EFFICIENCY**

7. There are no financial implications arising from the proposal.

### **CONSULTATION**

8. The report has been discussed with the Director of Business Operations and Partnerships and Chief Officer - HSCP

### **CONCLUSION**

9. Approval of the proposed delegations will ensure business efficacy and ensure that the Council is able to conclude legal documentation without unnecessary delay.

### **RECOMMENDATIONS**

10. The Council is asked to:-
  - iii) Approve new delegations to the Director of Business Operations and Partnerships and the Chief Officer – HSCP to act as substitute proper officers in the event of the Chief Officer – Legal and Procurement being unavailable ;
  - iv) Insert in the Scheme of Delegation as new paragraphs 10(c) and 42(h) the following words to give effect to these delegations:-

“in the absence of the Chief Officer – Legal and Procurement, to act as proper officer for the purposes of the Local Government (Contracts) Act 1997 and section 193 of the Local Government (Scotland) Act 1973 and to execute all deeds and similar documents which require to be executed”.

#### Report Author

Colin J Sweeney (Democratic Services Manager)

Background papers – none